

Takeaways from the Limpopo medico-legal symposium

By [Erwyn Durman](#)

27 Aug 2019

On the 3 August 2019, Norton Rose Fulbright presented at a medico-legal symposium hosted by the Health Professionals Group for the Limpopo Department of Health which was attended by approximately 100 medical professionals including dentists, surgeons, physiotherapists, nurses, and general practitioners to name a few.



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My colleague, Natasha Naidoo and I discussed patient record keeping and HPCSA complaints.

Patient record keeping

Patient record keeping is about employing methodologies and techniques that will aid in mitigating risks. Helpful tips are:

- Record events that transpire immediately – this ensures accuracy of the record;
- Conduct regular, compulsory training sessions and refresher courses on record keeping – all members of a multidisciplinary team are required to update records and it is vital that all team members are well trained on how to keep precise records;
- Use technology – voice recording apps are a useful tool to ensure that events are recorded immediately and transcribed at a later stage; and
- Make sure that the patient's personal information is protected.

HPCSA complaints

HPCSA complaints create significant risks for medical professionals. Some of the risks include:

- Potential of litigation - the case of Doctor Danie van der Walt is an example of an HPCSA complaint (2007) which lead to criminal proceedings. The high court has recently upheld a five year sentence against the doctor for culpable homicide.
- Register of complaints – the medical professional's name is recorded on a register.
- Time consuming and expensive – if the complaint is regarded as serious and is dealt with by way of a direct inquiry, the process can be lengthy and expensive.

All HPCSA complaints are based on alleged unprofessional conduct which is defined in the Health Professionals Act of 1974, as

“ improper or disgraceful or dishonourable or unworthy conduct, which when regard is had to the profession of a person who is registered in terms of the Act, is improper or disgraceful or dishonourable or unworthy. ”

The definition is non-prescriptive and is a catch-all for any form of conduct that would, in the opinion of the registrar, be unethical. The Ethical Rules of Conduct are used to determine the various types of unprofessional conduct. Medical professionals may use the [Ethical Guidelines Booklets](#) to obtain guidance and direction for the course of action in concrete situations. The Regulations Relating to Fines stipulate the fines that may be imposed on medical professionals for specific kinds of conduct.

Medical professionals who are found guilty or admit guilt for unprofessional conduct may be fined. The fines range from R1,000 for supersession to R70,000 for negligence or fraud. The most severe penalties that the HPCSA can impose are:

- A suspension from practising or performing acts specifically pertaining to profession for a specified period; and
- Permanent removal of the professional's name from the HPCSA's register.

Medical professionals may defend HPCSA complaints by providing an explanation in writing to the HPCSA. However, these explanations can be used as evidence against the medical professional and should be drafted by an attorney.

On the 14 September 2019, a similar medico-legal symposium will be held at Norton Rose Fulbright's offices, in Johannesburg, for the Gauteng Department of Health.

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